

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 04-cv-10927

Robert Jordan, et al

v.

Joseph Carter

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**CLERK'S CERTIFICATE**

I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 2/1/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on February 3, 2005.

Tony Anastas, Clerk of Court

By: *Jeanette Ramos*  
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 2/8/05

*S. Barclay*  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

## APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:04-cv-10927-RGS**

Jordan et al v. Carter et al  
Assigned to: Judge Richard G. Stearns  
Cause: 42:1983 Civil Rights Act

Date Filed: 05/10/2004  
Jury Demand: None  
Nature of Suit: 440 Civil  
Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Ronald Jordan**

represented by **Douglas I. Louison**  
Merrick, Louison & Costello  
67 Batterymarch Street  
third floor  
Boston, MA 02110  
617-439-0305  
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dlouison@merricklc.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**William E. Campbell**  
Campbell Bonenfant &  
Associates  
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Suite 204  
Winchester, MA 01890  
781-729-4489  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Michael E. Bonenfant**  
Campbell Bonenfant &  
Associates  
8 Winchester Place  
Suite 204  
Winchester, MA 01890  
781-729-4489  
*ATTORNEY TO BE  
NOTICED*

**Plaintiff**

**Robert McKay**

represented by **Douglas I. Louison**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE  
NOTICED*

**Michael E. Bonenfant**  
(See above for address)  
*ATTORNEY TO BE  
NOTICED*

**Plaintiff**

**The MBTA Police  
Patrolman's Union**

represented by **Douglas I. Louison**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE  
NOTICED*

**Michael E. Bonenfant**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE  
NOTICED*

**William E. Campbell**  
(See above for address)

**LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED**

V.

**Defendant**

**Joseph C. Carter**  
*individually and as Chief of  
the MBTA Police Department*

represented by **Mark W. Batten**  
 Proskauer Rose LLP  
 One International Place  
 Boston, MA 02110  
 617-526-9850  
 Email:  
 mbatten@proskauer.com  
**ATTORNEY TO BE  
NOTICED**

**Defendant**

**The MBTA Police  
Department**

represented by **Mark W. Batten**  
 (See above for address)  
**ATTORNEY TO BE  
NOTICED**

Date Filed	#	Docket Text
05/10/2004	•1	COMPLAINT Filing fee: \$ 150, receipt number 55790, filed by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union.(Flaherty, Elaine) (Entered: 05/12/2004)
05/10/2004	•	Summons Issued as to Joseph C.I Carter, The MBTA Police Department. (Flaherty, Elaine) (Entered: 05/12/2004)
05/10/2004	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Alexander.

		(Flaherty, Elaine) (Entered: 05/12/2004)
05/10/2004	• 2	MOTION for Leave to Appear Pro Hac Vice by Bonenfant Filing fee \$ 50., receipt number 55790. by Ronald Jordan.(Flaherty, Elaine) (Entered: 05/24/2004)
05/24/2004	•	Judge Richard G. Stearns : Electronic ORDER entered granting <u>2</u> Motion for Leave to Appear Pro Hac Vice (Flaherty, Elaine) (Entered: 05/24/2004)
06/21/2004	• 4	MOTION for Entry of Default by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union. (Flaherty, Elaine) (Entered: 06/29/2004)
06/23/2004	• 3	MOTION for Extension of Time to 07/09/2004 to File Answer, MOTION to Set Aside Default by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 06/23/2004)
06/28/2004	•	Judge Richard G. Stearns : Electronic ORDER entered granting <u>3</u> Motion for Extension of Time to Answer Joseph C. Carter, The MBTA Police Department finding as moot <u>4</u> Motion for Entry of Default (Flaherty, Elaine) Modified on 9/1/2004 (Flaherty, Elaine). (Entered: 06/29/2004)
07/09/2004	• 5	ANSWER to Complaint by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 07/09/2004)
08/02/2004	• 6	NOTICE of Scheduling Conference. Scheduling Conference set for 9/1/2004 03:15 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 08/03/2004)
08/06/2004	• 7	Document disclosure by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 08/06/2004)
08/12/2004	• 8	CERTIFICATION pursuant to Local Rule 16.1 by Joseph C. Carter, The MBTA Police Department.

		(Batten, Mark) (Entered: 08/12/2004)
08/25/2004	•9 ✓ wp	JOINT STATEMENT re scheduling conference. (Batten, Mark) (Entered: 08/25/2004)
09/01/2004	•10 •	Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Scheduling Conference held on 9/1/2004. Atty. Bonifant present for the pltf. Atty. Batten present for the deft. All fact discovery shall be completed by 2-4-05. Dispositive motions shall be filed by 3-4-05 with responses due 14 days thereafter. (Court Reporter None.) (Johnson, Mary) Modified on 9/16/2004 (Johnson, Mary). (Entered: 09/16/2004)
11/03/2004	•11 ✓ wp	MOTION to Amend <i>Answer</i> by Joseph C. Carter, The MBTA Police Department. (Attachments: # <a href="#">1</a> Proposed Amended Answer)(Batten, Mark) (Entered: 11/03/2004)
11/03/2004	•12 ✓ wp	MOTION for Judgment on the Pleadings by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 11/03/2004)
11/03/2004	•13 ✓ wp	MEMORANDUM in Support re <a href="#">12</a> MOTION for Judgment on the Pleadings filed by Joseph C. Carter, The MBTA Police Department. (Batten, Mark) (Entered: 11/03/2004)
11/18/2004	•14 ✓ wp	MEMORANDUM in Opposition re <a href="#">12</a> MOTION for Judgment on the Pleadings filed by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union. (Flaherty, Elaine) (Entered: 11/23/2004)
12/02/2004	•15 ✓ wp	REPLY to Response to Motion re <a href="#">12</a> MOTION for Judgment on the Pleadings filed by Joseph C. Carter, The MBTA Police Department. (Batten, Mark) (Entered: 12/02/2004)
12/02/2004	•16 ✓ wp	NOTICE of Hearing on Motion <a href="#">12</a> . MOTION for Judgment on the Pleadings: Motion Hearing set for

		1/14/2005 02:30 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 12/02/2004)
12/02/2004	•17	AFFIDAVIT of Dolores Ford-Murphy by The MBTA Police Department. (Flaherty, Elaine) (Entered: 12/08/2004)
12/02/2004	•19	APPENDIX/EXHIBIT re <u>17</u> Affidavit by The MBTA Police Department Volumes I and II, FILED. (Flaherty, Elaine) (Entered: 01/12/2005)
12/20/2004	•18 wpt	NOTICE of Appearance by Douglas I. Louison on behalf of Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union (Flaherty, Elaine) (Entered: 12/23/2004)
01/14/2005	•20 emt	SUR-REPLY to Motion re <u>12</u> MOTION for Judgment on the Pleadings filed by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union. (Louison, Douglas) (Entered: 01/14/2005)
01/14/2005	•	Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Motion Hearing held on 1/14/2005 re <u>12</u> MOTION for Judgment on the Pleadings filed by The MBTA Police Department,, Joseph C. Carter. Attys. Louison and Bonifant present for the plaintiffs. Atty. Batten present for the defts. The Union agrees to voluntarily dismiss its claims, as it is an improper party. Plaintiffs waive Counts I and II (due process claims). Court DENIES Motion for Judgment on the Pleadings as to Counts III and IV (free speech claims). Counts V and VI (freedom of association claims) are DISMISSED without prejudice. Plaintiffs may seek leave to amend claims V and VI if an appropriate legal theory is established. The motion is ALLOWED as to Count VII. The motion asserting Carter's defense of qualified immunity is DENIED. (Court Reporter Valerie O'Hara.) (Johnson, Mary) Modified on 1/14/2005

		(Johnson, Mary) (Entered: 01/14/2005)
01/14/2005		Judge Richard G. Stearns : Electronic ORDER entered granting in part and denying in part <u>12</u> Motion for Judgment on the Pleadings. (Johnson, Mary) (Entered: 01/14/2005)
02/01/2005	21	NOTICE OF INTERLOCUTORY APPEAL as to Order on Motion for Judgment on the Pleadings by Joseph C. Carter. Filing fee \$ 255. Appeal Record due by 2/22/2005. (Batten, Mark) (Entered: 02/01/2005)